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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/048,082	01/24/2002	Faiz Feisal Sherman	7691	1652

27752 7590 09/08/2003

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CINCINNATI, OH 45224

EXAMINER

FOX, JOHN C

ART UNIT	PAPER NUMBER
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3753

DATE MAILED: 09/08/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

18/048082

Applicant(s)

Examiner

Fyx

Group Art Unit

3253

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 1/24/2002
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-29 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☒ Claim(s) 1-29 are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 3
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

Office Action Summary

Serial Number: 10/048082

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This action is responsive to the communication filed January 24, 2002.

Restriction to one of the following inventions is required under 35 U.S.C. § 121:

- I. Claims 1-25, drawn to a valve, classified in Class 137, subclass 625.3.
- II. Claim 26, drawn to a battery, classified in Class 429, subclass 27.
- III. Claims 27-29, drawn to a method of making a valve and intermediate products in the method, classified in Class 29, subclass 890.10.

The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the

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subcombination has utility by itself or in other combinations. (M.P.E.P. § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed in that the grounds of rejection and/or reasons for allowance of the combination claim(s) are necessarily predicated on consideration of the additional features recited therein and not found in the subcombination claim(s). The subcombination has separate utility such as a valve for a fluidics device, for example.

Inventions III and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (M.P.E.P. § 806.05(f)). In the instant case the product as claimed can be made by another and materially different process such as an additive process.

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Because these inventions are distinct for the reasons given above and the examination required for each Group is not the same as for the other Group(s) restriction for examination purposes as indicated is proper.

Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

This application contains claims directed to the following patentably distinct species of the claimed invention:

Species A: Figure(s) 3

Species B: Figure(s) 4

Species C: Figure(s) 5

Species D: Figure(s) 16-17.

Applicant is required under 35 U.S.C. § 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, at least claims 1-5 appear to be generic.

Applicant is advised that a response to this requirement must include an identification of the species that is elected consonant with this

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requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 C.F.R. § 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. M.P.E.P. § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. § 103 of the other invention.

It should be noted that some of the species listed above may not currently be specifically claimed. However, such unclaimed species are listed at this time in the interest of expediting prosecution in that applicant may identify and elect **any** single disclosed species and to present claims drawn thereto. Moreover, there may be other species present than those listed above such as disclosed but unillustrated variations and applicant may also identify and elect such other species.

Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

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Any inquiry concerning this communication should be directed to Examiner Fox at (703) 308-2595 or [John.Fox@uspto.gov](mailto:John.Fox@uspto.gov). Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0861. The fax number for TC 3700 is 703-872-9302. For responses after final the fax number is 703-872-9303. The Supervisory Primary Examiner for Art Unit 3753 is John Rivell who can be reached at (703) 308-2599 or at [John.Rivell@uspto.gov](mailto:John.Rivell@uspto.gov).

  
JOHN FOX  
PRIMARY EXAMINER  
ART UNIT 3753

jcf  
September 6, 2003